



31 MAR 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENT
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

LOWE HAUPTMAN GILMAN & BERNER
1700 DIAGONAL ROAD, SUITE 300
ALEXANDRIA, VA 22314

In re Application of VANDERBIST et al.

Application No.: 09/424,247

PCT No.: PCT/BE98/00064

Int. Filing Date: 07 May 1998

Priority Date: 07 May 1997

Attorney Docket No.: 4619-009

For: DRY POWDER INHALER EXCIPIENT,

PROCESS FOR ITS PREPARATION AND

PHARMACEUTICAL COMPOSITIONS CONTAINING IT

DECISION ON

RESPONSE

UNDER 37 CFR §1.497

This is a decision on applicants' "Response on Renewed Petition under 37 CFR 1.47(a)" originally filed 30 October 2002 in the United States Patent and Trademark Office (USPTO) in the above-captioned application, a copy of which was filed via facsimile on 13 January 2003. The response is treated as a petition under 37 CFR 1.497. The renewed petition was accompanied by a "Request for Extension of Time" of three months, which is granted.

The long procedural history of this application will not be reiterated here as it has been set forth in earlier decisions. Suffice it to say that on 07 May 2002, applicants submitted a communication with a copy of the USPTO itemized postcard receipt date-stamped "Jan 23 2002" indicating that a renewed petition under 37 CFR 1.47(a) and a declaration signed by applicant/inventor Paul Maes were filed on 23 January 2002 along with a request for a two month extension of time. A declaration executed by the joint inventors Francis Vanderbist and Philippe Baudier was submitted on 30 November 1999.

A review of the 23 January 2002 declaration indicated that the declaration was executed by inventor Paul Maes only, who was previously alleged to be uncooperative. However, on page 4 of the declaration, a line was drawn through the box dedicated to the third named inventor, Philippe Baudier. This page was initialed at the bottom. With this marking on the declaration, the declaration did not identify all the inventors as listed on the international application and therefore, it did not comply with 37 CFR 1.497 and was unacceptable.

On 30 October 2002, applicant filed the instant response along with (1) request for a three month extension of time; (2) a newly executed declaration and appointment of attorney signed by Paul Maes; (3) revocation of power of attorney and appointment of new agent; and (4) notification of change of name and address.

The declaration submitted on 30 October 2002 is executed by Paul Maes and identifies each inventor and states the citizenship, residency and mailing address of each inventor on the declaration. Thus, the declaration now meets the requirements of 37 CFR 1.497.

For the above reasons, the request to accept the declaration under 37 CFR 1.497 is granted.

This application is being forwarded to United States Designated/Elected Office for further processing. The 35 U.S.C. 371 date is **30 October 2002**.



Cynthia M. Kratz
Attorney Advisor
PCT Legal Office

Telephone: 703-306-5467
Facsimile: 703-308-6459

CMK:cmk